

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Application of)
)
Lawrence Gutter)
)
Amateur Radio Service Call Sign WA2YTO)

ORDER ON RECONSIDERATION

Adopted: September 6, 2000

Released: September 11, 1999

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On December 6, 1999, Lawrence Gutter (Gutter) petitioned for reconsideration of the November 8, 1999 dismissal of his renewal application for Amateur Radio Service Call Sign WA2YTO by the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (Branch).¹ For the reasons discussed herein, we dismiss the petition.

II. BACKGROUND

2. On November 3, 1999, Gutter filed a renewal application for Amateur Radio Service Call Sign WA2YTO, which expired on November 3, 1997.² On November 8, 1999, the Branch dismissed the application because it did not include a Taxpayer Identification Number (TIN).³ In the dismissal notice, the Branch cited a FCC *Public Notice* stating that, beginning August 16, 1999 the Commission would require all applicants in the Amateur Radio Service to provide a TIN with their applications.⁴

3. On December 6, 1999, Gutter requested reconsideration of the dismissal, and resubmitted the application with a TIN. Both the Petition and the revised application were sent directly to the Branch, which is located in Gettysburg, Pennsylvania. Gutter states that at the time he filed the application, he was unaware that the Commission had amended its Rules to require the use of TINs on applications in the

¹ Letter, dated November 30, 1999, from Lawrence Gutter to FCC, Gettysburg, Pennsylvania (Petition).

² FCC Form 610, dated November 1, 1999, from Lawrence Gutter to Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch.

³ Notice of Immediate Application Dismissal, dated November 8, 1999, from Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch to Lawrence Gutter.

⁴ See Wireless Telecommunications Bureau to Begin Use of Universal Licensing System (ULS) for Licensing in the Amateur Radio Services Beginning August 16, 1999, *Public Notice*, DA 99-1455 (rel. July 23, 1999) (*Public Notice*). The *Public Notice* stated that the Commission would begin using FCC Form 605 for Amateur Service application filings, but would continue to accept applications on FCC Forms 610 and 610V until February 16, 2000, so long as the applicant provided the necessary supplemental information (including a TIN). *Id.* at 5-6, Appendix A.

Amateur Radio Service.⁵ Gutter also suggests that while he initially filed the application within the two-year grace period set forth in Section 97.21(b) of the Commission's Rules,⁶ the delay resulting from the Branch's dismissal of the application caused him to fail to file a complete renewal application within the grace period.⁷

III. DISCUSSION

4. Section 405 of the Communications Act, as amended, sets forth the requirements that a petitioner must satisfy before we may consider the petitioner's pleadings on reconsideration.⁸ Section 405, as implemented by Section 1.106(f) of the Commission's Rules, requires that a petition for reconsideration be filed within thirty days of the release date of the Commission's action.⁹ Furthermore, Section 1.106(i) states that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.¹⁰

5. The Commission maintains different offices for different purposes, and persons filing documents with the Commission must take care to ensure that their documents are filed at the correct location as specified in the Commission's Rules.¹¹ A document is filed with the Commission upon its receipt at the location designated by the Commission.¹² Accordingly, based on the plain language of the Commission's Rules, a petition for reconsideration that is submitted to the FCC's Gettysburg, Pennsylvania office is not properly filed.¹³

6. We conclude that Gutter did not satisfy the filing requirement in accordance with Section 1.106 of the Commission's Rules when he submitted his petition to the Branch in Gettysburg, Pennsylvania

⁵ Petition at 1.

⁶ See 47 C.F.R. § 97.21(b), which states that a person whose amateur station license grant has expired may apply to the FCC for renewal of the license grant for another term during a two-year filing grace period.

⁷ Petition at 1.

⁸ 47 U.S.C. § 405.

⁹ 47 U.S.C. § 405; 47 C.F.R. § 1.106(f).

¹⁰ 47 C.F.R. § 1.106(i).

¹¹ 47 C.F.R. § 0.401.

¹² 47 C.F.R. § 1.7; First Auction of Interactive Video and Data Service (IVDS) Licenses, Request for Waiver of Applications Deadline, *Memorandum Opinion and Order*, 11 FCC Rcd 1134, 1135 (1996); Complaints Regarding Cable Programming Service Prices, *Amended Order on Reconsideration*, 10 FCC Rcd 12778, 12780 n.14 (CSB 1995).

¹³ See, e.g., Memorandum of Agreement between the Federal Communications Commission and Elkins Institute, Inc., *Order on Reconsideration*, 14 FCC Rcd 5080 (WTB 1999) (determining that a facsimile copy to a division office neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office); Columbia Millimeter Communications, LP, *Order on Reconsideration*, 14 FCC Rcd 2782 (WTB PSPWD 1999) (finding that a petition for reconsideration sent to the Commission's lock box at Mellon Bank neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office), *aff'd*, *Order on Reconsideration*, 15 FCC Rcd 10251 (WTB PSPWD 2000).

instead of submitting it to the FCC's Office of the Secretary in Washington, D.C. Because the thirty-day window for the filing of a petition for reconsideration, as determined under Section 1.4 of the Commission's Rules,¹⁴ closed on December 8, 1999, the Petition was not received by the Secretary within the thirty-day period, and no request for waiver of the requisite filing location was submitted, we conclude that the Petition should be dismissed.¹⁵ Therefore, we dismiss Gutter's petition for reconsideration.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.106 and 1.925 of the Commission's Rules, 47 C.F.R. §§ 1.106, 1.925, the Petition for Reconsideration filed by Lawrence Gutter on December 6, 1999 IS DISMISSED.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹⁴ 47 C.F.R. § 1.4(b)(5).

¹⁵ We note that the Branch correctly dismissed Gutter's renewal application. The fact that Gutter was unaware of the correct information to supply for the renewal of your license is not sufficient justification for the reinstatement of his license. Section 0.406 of the Commission's Rules, 47 C.F.R. § 0.406, advises persons having business with the Commission to familiarize themselves with those portions of our rules pertinent to their business, including what information the Commission requires to process applications. Further, we note that the Bureau informed potential applicants that failure to provide their TINs on amateur applications filed after August 16, 2000 would result in the dismissal of such applications. *Public Notice* at 6. In addition, the resubmitted application also is defective because it was filed beyond the two-year grace period for renewing expired amateur licenses. Any delay caused by the dismissal of the application could have been eliminated by Gutter's filing of his renewal early enough to allow sufficient time to resubmit his application prior to the expiration of the grace period.